

INTERJURISDICTIONAL COOPERATIVE AGREEMENT

An Agreement Between the State of Nevada

Acting By and Through Its

DEPARTMENT OF _____

(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF CONTRACTING AGENCY)

and

THE _____ TRIBE

(NAME, ADDRESS, PHONE AND FACSIMILE NUMBER OF CONTRACTING TRIBE)

WHEREAS, NRS 277.110 authorizes any two or more public agencies—which for purposes of cooperative agreements includes tribes and certain tribal entities—to enter into agreements for joint or cooperative action; and

WHEREAS, the Nevada Department of _____ also has authority to enter into cooperative agreements pursuant to NRS _____; and

WHEREAS, the _____ Tribe has authority to enter into cooperative agreements pursuant to [constitution, ordinance, statute, etc.]; and

WHEREAS, it is deemed that the cooperative action as hereinafter set forth between the parties is in the best interests of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. REQUIRED APPROVAL. This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. DEFINITIONS. "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307. Tribe means the _____ Tribe.

3. AGREEMENT TERM. This Agreement shall be effective upon approval to _____, unless sooner terminated by either party as set forth in this Agreement.

4. TERMINATION. This Agreement may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until _____ days after a party has served written notice upon the other party. This Agreement may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Agreement shall be terminated immediately if for any reason tribal and/or State Legislature funding ability to satisfy this Agreement is withdrawn, limited, or impaired.

5. NOTICE. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.

6. INCORPORATED DOCUMENTS. The parties agree that the scope of the cooperative action shall be specifically described in accordance with State Administrative Manual § 0308.0; this Agreement incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A SCOPE OF COOPERATIVE ACTION

7. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Agreement are also specifically a part of this Agreement and are limited only by their respective order of precedence and any limitations expressly provided.

8. INSPECTION & AUDIT.

a. Books and Records. Each party agrees to keep and maintain under generally accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the state, tribe, or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all applicable regulations and statutes.

b. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and

practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor; Employment Security; the Department of Administration, Budget Division; the Nevada State Attorney General's Office or its Fraud Control Units; the State Legislative Auditor; and any authorized tribal accountant, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.

- c. Period of Retention. All books, records, reports, and statements relevant to this Agreement must be retained a minimum three years and for five years if any federal funds are used in this Agreement. The retention period runs from the date of termination of this Agreement. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

9. INDEMNIFICATION.

OPTION 1

- a. To the fullest extent of NRS chapter 41 liability limitations, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.
- b. The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.

OPTION 2

- a. To the fullest extent of each party's respective law governing liability limitations, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.
- b. The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.

OPTION 3

Neither party agrees to indemnify the other. In lieu of indemnification, [insuring party] shall, at [insuring party]'s sole expense, procure, maintain and keep in force for the duration of this agreement the following insurance conforming to the minimum requirements specified below. Unless specified herein or otherwise agreed to by the parties, the required insurance shall be in effect prior to the commencement of cooperative efforts pursuant to this agreement and shall continue in force as appropriate until termination of the agreement.

Any insurance or self-insurance available to the [insured party] shall be in excess of and non-contributing with any insurance required from [insuring party]. [Insuring party]'s insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required under this agreement, [insuring party] shall provide [insured party] with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If, at any time during the period when insurance is required by the agreement, an insurer or surety shall fail to comply with the requirements of this agreement, as

soon as [insuring party] has knowledge of any such failure, [insuring party] shall immediately notify the [insured party] and immediately replace such insurance or bond with an insurer meeting the requirements.

OPTION 4

Each party shall hold harmless the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents.

10. WORKERS' COMPENSATION AND LIABILITY INSURANCE. Each party shall be responsible for ensuring its officers, employees and agents have workers' compensation coverage in accordance with applicable laws while this Agreement is in effect. Each party shall be responsible for ensuring its officers, employees and agents are covered under their general liability insurance policy. Either party may, at any time, request proof of such workers' compensation and liability insurance coverage, which shall be promptly provided.

11. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement, and in respect to performance of services pursuant to this Agreement, each party is and shall be separate and distinct from the other party and, subject only to the terms of this Agreement, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

12. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.

13. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this

Agreement), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Agreement shall be the joint property of both parties.

14. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

15. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or as otherwise required by this Agreement.

16. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement and that the parties are authorized by law to engage in the cooperative action set forth in paragraph (6).

17. GOVERNING LAW; JURISDICTION. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, except that neither party's entry into this Agreement shall be construed as waiver of immunity that otherwise exists in law.

18. ENTIRE AGREEMENT AND MODIFICATION. This Agreement constitutes the entire agreement of the parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

19. MISCELLANEOUS PROVISIONS.

A. Nothing in this agreement shall be construed as either limiting or extending the lawful

jurisdiction of any party other than as expressly set forth.

B. This agreement has been entered into solely for the legal benefit of the parties and shall *not* be construed as applicable to, nor for the legal benefit of, anyone who is not a party.

C. Neither party is required to compensate the other party for services rendered under this Agreement. Each party agrees to use its own resources and equipment, and each party shall be responsible for any costs or repairs associated with such resources and equipment.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and intend to be legally bound thereby.

Signature

Date

Title

Signature

Date

Title

Approved as to form by:

Deputy Attorney General for Attorney General

On _____

ATTACHMENT A

SCOPE OF COOPERATIVE ACTION

I. PURPOSES:

A. The Nevada Department of _____ and the _____ Tribe shall have the right to call upon peace officers of the other for the purpose of requesting assistance, back-up, or other form of mutual aid or assistance which may be required in the performance of law enforcement duties.

II. PEACE OFFICER QUALIFICATIONS

A. All peace officers who are engaged in law enforcement under the INTERJURISDICTIONAL COOPERATIVE AGREEMENT (Agreement) to which this is an attachment shall meet the following minimum requirements:

1. Each peace officer shall be regularly employed as a law enforcement officer in a full-time capacity and, in that capacity, be directly supervised and controlled by one of the parties.
2. Each peace officer shall have completed the training and certification requirements of the jurisdiction in which that officer is regularly employed.

B. Each Party agrees to notify the other as soon as practicable when any peace officer is no longer eligible to participate in interjurisdictional law enforcement activities due to any reason.

III. PROCEDURE TO REQUEST ASSISTANCE

Requests for aid shall be made orally or in writing to the Captain of the Tribe's police department or to the [identify state official]. These officials may appoint

designated representatives to act for them when they are not available or as circumstances warrant.

IV. VOLUNTARY RESPONSE

A party's response to any request for mutual aid is entirely voluntary and is left solely to the discretion and judgment of the responding party with no obligation to respond favorably to any request.

V. USE OF FORCE, INCIDENT INVESTIGATIONS

A. The investigation of any use of force incident or motor vehicle accident that takes place while providing interjurisdictional assistance shall be the primary responsibility of the jurisdiction in which the incident occurred. The investigation shall be conducted according to the policies, procedures and protocols of the jurisdiction in which the incident occurred.

B. If an on-duty officer from one jurisdiction is involved in a use of force incident or traffic accident in the other jurisdiction, the following procedures shall apply:

1. The agency employing the involved officer shall provide a minimum of one supervisor or investigator to work with the investigating agency.
2. The agency employing the involved officer may interact and assist with the investigating agency, but will not attempt to influence the course or outcome of the investigation.
3. Nothing prohibits the jurisdiction in which the incident occurred from requesting assistance from other agencies, including

agencies associated with the federal government.

VI. DISPOSITION OF FORFEITED ASSETS

In the event of any asset forfeiture proceedings arising out of interjurisdictional law enforcement activity, the parties agree to an equitable sharing of forfeiture proceeds based upon the relative contributions of the parties.

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